

# OPEN MEETING ITEM



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**COMMISSIONERS**  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

## ORIGINAL



### ARIZONA CORPORATION COMMISSION

DATE: June 2, 2006

DOCKET NO.: RR-03639A-06-0217

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

#### UNION PACIFIC RAILROAD (UPGRADE CROSSING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JUNE 12, 2006

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for Open Meeting to be held on:

JUNE 27 AND 28, 2006

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER, Chairman  
4 WILLIAM A. MUNDELL  
5 MARC SPITZER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF  
9 THE ARIZONA DEPARTMENT OF  
10 TRANSPORTATION TO UPGRADE A  
11 CROSSING OF THE UNION PACIFIC  
12 RAILROAD AT 1-10 FRONTAGE ROAD AT INA  
13 ROAD, AT M.P. 974.0, IN MARANA, PIMA  
14 COUNTY, ARIZONA, AAR/DOT NO. 741-101-G.

DOCKET NO. RR-03639A-06-0217

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

10 DATE OF HEARING: May 18, 2006

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

13 APPEARANCES: Mr. David Ronald, Staff Attorney, Legal Division on  
14 behalf of the Utilities Division of the Arizona  
Corporation Commission.

15 **BY THE COMMISSION:**

16 On April 14, 2006, the Arizona Department of Transportation ("ADOT") submitted to the  
17 Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the  
18 approval of an agreement between ADOT and the Union Pacific Railroad Company ("Railroad") to  
19 upgrade the Railroad's crossing at the I-10 Frontage Road at Ina Road in Marana, Pima County,  
20 Arizona, at AAR/DOT No. 741-101-G ("Application").

21 On April 12, 2006, by Procedural Order, the Application was set for a hearing and ADOT was  
22 ordered to notify any interested party of the Application and the hearing.

23 On April 21, 2006, ADOT certified that notice had been provided pursuant to the terms of the  
24 Procedural Order.

25 On May 18, 2006, a full public hearing was held before a duly authorized Administrative Law  
26 Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety  
27 Section was represented by counsel. At the conclusion of the hearing, the matter was taken under  
28 advisement pending submission of a recommended Opinion and Order to the Commission.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On April 4, 2006, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad for the upgrade of a crossing to replace existing flashing lights with new cantilever LED automatic warning devices at the I-10 Frontage Road at Ina Road in Marana, Pima County, Arizona at AAR/DOT No. 741-101-G.

2. On April 21, 2006, ADOT filed certification that it had provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on May 18, 2006.

4. The Application provides for the Railroad to install new automatic cantilever signals with new LED flashing lights at the crossing. The existing automatic gates will remain in use.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application is proper.

6. Staff has recommended that the Application be approved.

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Pursuant to A.R.S. §§ 40-336 and 40-337, installation of the crossing upgrade is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

5. After installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

**ORDER**

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad Company shall maintain the crossing in compliance with the A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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 CHAIRMAN

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 COMMISSIONER

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 COMMISSIONER

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 COMMISSIONER

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 COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2006.

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 BRIAN C. McNEIL  
 EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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SERVICE LIST FOR: UNION PACIFIC RAILROAD

DOCKET NO.: RR-03639A-06-0217

James H. Smith  
UNION PACIFIC RAILROAD COMPANY  
10031 Foothills Blvd.  
Roseville, CA 95747

John Syers  
Railroad Engineering Coordinator  
Arizona Department of Transportation  
205 S. 17<sup>th</sup> Avenue, Mail Drop 618E  
Phoenix, AZ 85007

David Gibson  
Arizona Department of Transportation  
Traffic Records Section  
206 S. 17th Avenue, Mail Drop 064R  
Phoenix, AZ 85007

Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Brian Lehman, Chief  
Railroad Safety Section  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007